

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ROBERT WADE,

Petitioner,

v.

**BERNARD F. BRADY, and
THOMAS F. REILLY,**

Respondents.

Civil Action No. 04-12135-NG

**RESPONDENTS' MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS AS TIME-BARRED**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, the respondents respectfully submit this motion to dismiss the petition for a writ of habeas corpus filed by the petitioner, Robert Wade. The petition must be dismissed as time-barred under 28 U.S.C. § 2244(d), the statute of limitations for federal habeas corpus petitions. Because his conviction became final on August 6, 1998, the petitioner had to file his federal habeas petition within a one-year limitations period that expired on November 6, 1999. This petition was not filed until October 8, 2004, however, almost five years after the limitations period had lapsed. Accordingly, the petition must be dismissed as time-barred.¹ In support of their motion, the respondents rely on the accompanying memorandum of law and exhibits.

¹ The respondents' remaining defenses are not addressed here because the running of the statute of limitations mandates dismissal of the petition. In the event that this Court declines to dismiss the petition as time-barred, the respondents reserve the right, and requests the opportunity, to file an answer and assert all other applicable defenses.

WHEREFORE, the respondents respectfully request that the Court dismiss this habeas petition with prejudice on the grounds that it is time-barred.

Respectfully submitted,

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ATTORNEY GENERAL

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